

SENATE BILL REPORT

SB 5121

As Reported by Senate Committee On:
Financial Institutions, Housing & Insurance, January 25, 2011

Title: An act relating to adopting the investments of insurers model act.

Brief Description: Adopting the investments of insurers model act.

Sponsors: Senator Hobbs; by request of Insurance Commissioner.

Brief History:

Committee Activity: Financial Institutions, Housing & Insurance: 1/19/11, 1/25/11 [DPA].

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Majority Report: Do pass as amended.

Signed by Senators Hobbs, Chair; Prentice, Vice Chair; Fain, Haugen, Keiser and Litzow.

Staff: Edward Redmond (786-7471)

Background: The Office of Insurance Commissioner (OIC) is authorized to regulate insurance in Washington. This includes licensing of agents and brokers, approval of insurance rate and form filings, collection of premium taxes, responding to consumer complaints, oversight of investments and financial solvency.

The Washington Insurance Investments Act, first adopted in 1947, establishes the framework for investments by domestic insurers. To protect against insolvency through overtly risky investment practices, the OIC is authorized, under this Act, to set general limits and restrictions on the type of securities an insurer can invest in and the type of loans it can make. Such investments include: public and corporate obligations, derivatives, and mortgage bonds. An insurer is also required to maintain signed, written records of its investments authorized by an officer of the insurer or by the chair of such committee.

The National Association of Insurance Commissioners (NAIC) is the organization of insurance regulators from the 50 states, the District of Columbia and the five U.S. territories. Formed in 1871, the NAIC provides a forum for the development of uniform policy when uniformity is appropriate. In 1998, the NAIC developed and published The Investment of Insurers Model Act (Model Act) to protect and further the interest of insureds, creditors, and the general public.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

There are two versions of the Model Act: the defined limitations version (which places a cap on the amount of corporate assets an insurer can direct in a particular investment) and the defined standards version. Under the defined standards version, the Model Act sets minimum financial security benchmarks and minimum asset requirements that insurers must meet in order to be classified as solvent. This version of the Model Act, concurrently, seeks to provide sufficient autonomy to an insurer by allowing broad discretion in the formation of its investment policy.

Summary of Bill (Recommended Amendments): The Washington Investment Act is repealed and the Model Act, Defined Standards Version, is adopted in substantial part. The commissioner is authorized to enact rules that target specific investment practices and classes of insurance in lieu of general regulations that affect the insurance industry as a whole. Certain investment practices are prohibited. Such practices include: use of a derivative instrument for any purposes other than hedging or income generation; investment in real property for speculative, gaming, or mineral exploration purposes; or investments in securities issued by any insolvent corporation.

Insurers must establish and follow a written investment policy, which must be reviewed and approved annually by the insurer's board of directors. Such investment policy is considered confidential and not subject to public record or subpoena. In determining whether an investment portfolio or investment policy is prudent, the commissioner will consider factors including, but not limited to: general economic conditions, the possible effect of inflation or deflation, and the extent of diversification of the insurer's investments. The commissioner may, after determining that an insurer's investment practices do not meet the minimum standards of the Model Act, order the insurer to make changes necessary to comply with such standards.

An insurer may request an administrative hearing if it has been aggrieved by the commissioner with regards to compliance under the Model Act or rules adopted under the Model Act.

EFFECT OF CHANGES MADE BY FINANCIAL INSTITUTIONS, HOUSING & INSURANCE COMMITTEE (Recommended Amendments): Corrects the inadvertent omission of the phrase "and subsidiaries". This omission would have unintentionally placed a percentage limit on the amount of admitted assets an insurer could invest in U.S. government subsidiaries.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on January 1, 2012.

Staff Summary of Public Testimony on Original Bill: PRO: The bill is based on a more recent version of the Model Act. It reflects advances in the understanding of risk

management through diversification and also takes an approach that is moving towards Principles-Based Accounting Standards (PBAS). PBAS gives regulators the ability to look at more specific instances as to what is happening in the market, rather than applying a one-size-fits-all insurers approach. In terms of PBAS vs. General Accepted Accounting Principles, the bill anticipates the adoption of Solvency II international accounting standards. This will likely become a more broadly adopted standard used by insurance regulators.

The stakeholder meeting that the OIC undertook was lengthy and there was active involvement on the part of the industry. The domestic insurers group believes this bill is an improvement over the current law.

Persons Testifying: PRO: Drew Bouton, Jim Odiorne, Office of Insurance Commissioner; Jean Leonard, Washington Insurers.